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INCOME TAX LAW

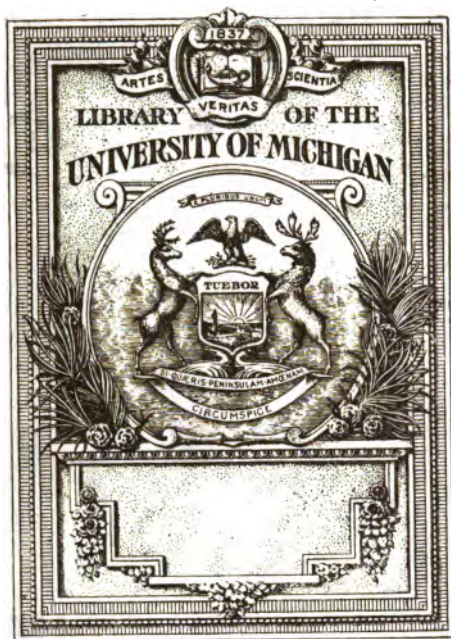
AND ESTATE TAX LAW

ANALYSIS AND COMMENT

BY A. H. HARRIS, ATTORNEY AT LAW, N. Y. C.

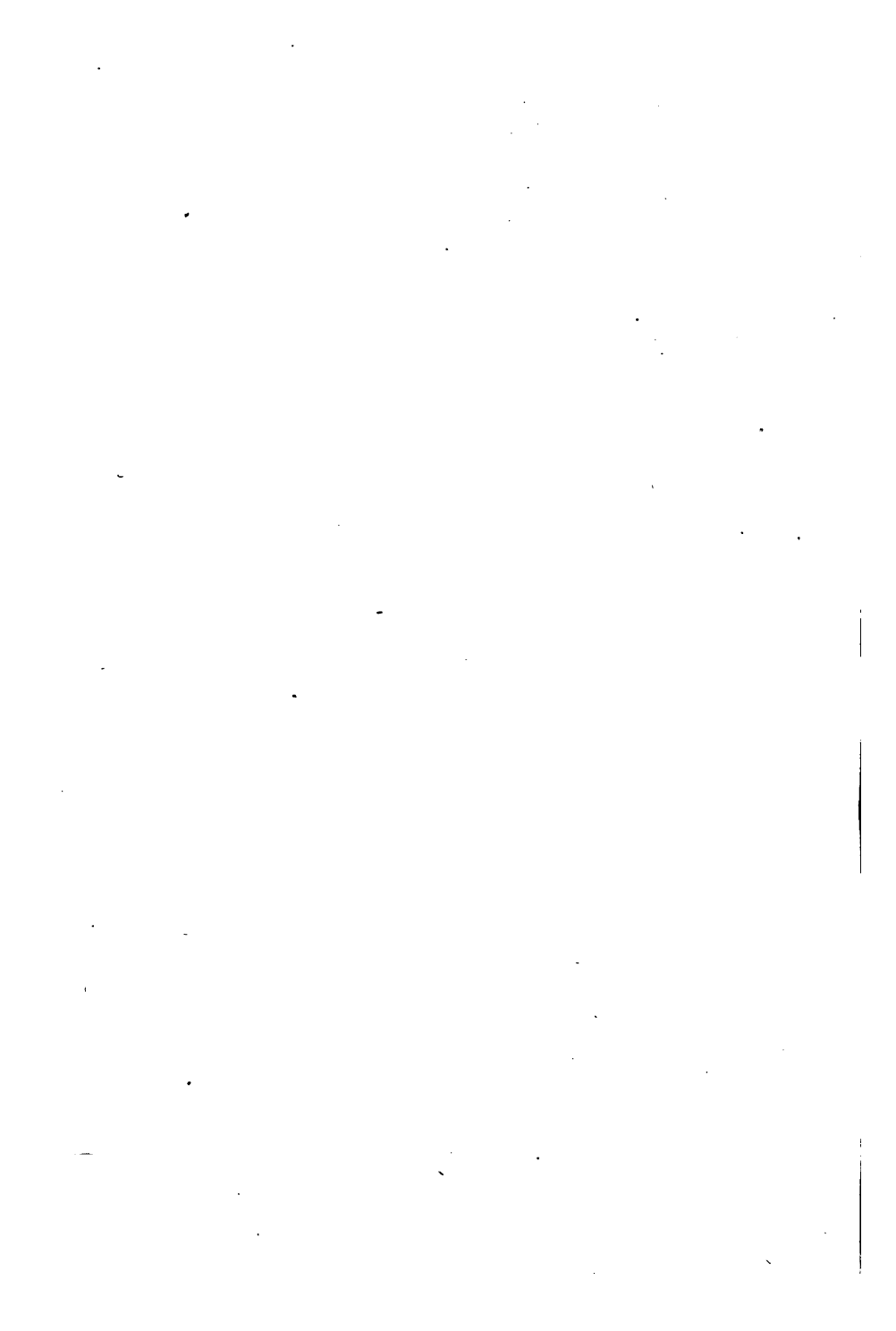
AND F. W. HARRIS, ATTORNEY AT LAW, N. Y. C.

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ANALYSIS AND COMMENT

THIRD EDITION

together with

ESTATE TAX LAW

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After the enactment of the Income Tax Law in 1913 we prepared and distributed in two editions a general analysis of the Statute with comments thereon. Those editions proved of interest and apparently of help to our clients; accordingly, we have prepared this booklet along similar lines to include the Income Tax Law in its much amended and revised form, and the Federal Inheritance or Estate Tax Law just enacted. The latter Statute is referred to in more than ordinary detail because the tax and its application and administration are new; however, the general skeleton and many administrative provisions of both old and new Income Tax Laws are essentially alike, and, as investors are generally familiar with these provisions after three years of operation of the old Law, many income tax provisions which are commonly immaterial are mentioned only briefly, if at all. Added opportunity is thus afforded to emphasize the changes in the new Law, especially in their practical aspects.

As in the previous editions, the comments following are intended in no sense as a legal treatise and are made with the knowledge that later rulings by the Treasury Department and decisions by the Courts will in all probability affect the Law's interpretation and application.

Harris, Forbes & Co.

September Twenty-second,
Nineteen Hundred
and Sixteen

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Table of Income Tax

Assuming that a taxpayer is entitled to no deduction or exemption other than a specific exemption of \$4,000, the following table indicates the amount of Income Tax imposed by the revised Law upon the annual net income of an individual ranging from \$4,000 to \$2,000,000. As a matter of general interest there has also been included in this table the total tax levied under the previous Statute on the corresponding amounts of income:

INCOME	NEW LAW			OLD LAW
	Normal Tax	Additional Tax (Surtax)	Total Tax	Total Tax
\$4,000	.....	.....	.....	.....
5,000	\$20	.....	\$20	\$10
6,000	40	.....	40	20
7,000	60	.....	60	30
8,000	80	.....	80	40
9,000	100	.....	100	50
10,000	120	.....	120	60
15,000	220	.....	220	110
20,000	320	.....	320	160
25,000	420	\$50	470	260
30,000	520	100	620	360
35,000	620	150	770	460
40,000	720	200	920	560
45,000	820	300	1,120	660
50,000	920	400	1,320	760
55,000	1,020	500	1,520	910
60,000	1,120	600	1,720	1,060
65,000	1,220	750	1,970	1,210
70,000	1,320	900	2,220	1,360
75,000	1,420	1,050	2,470	1,510
80,000	1,520	1,200	2,720	1,710
85,000	1,620	1,400	3,020	1,910
90,000	1,720	1,600	3,320	2,110
95,000	1,820	1,800	3,620	2,310
100,000	1,920	2,000	3,920	2,510
125,000	2,420	3,250	5,670	3,760
150,000	2,920	4,500	7,420	5,010
175,000	3,420	6,000	9,420	6,260
200,000	3,920	7,500	11,420	7,510
225,000	4,420	9,250	13,670	8,760
250,000	4,920	11,000	15,920	10,010
300,000	5,920	15,000	20,920	13,010
350,000	6,920	19,500	26,420	16,010
400,000	7,920	24,000	31,920	19,010
450,000	8,920	28,500	37,420	22,010
500,000	9,920	33,000	42,920	25,010
600,000	11,920	43,000	54,920	32,010
700,000	13,920	53,000	66,920	39,010
800,000	15,920	63,000	78,920	46,010
900,000	17,920	73,000	90,920	53,010
1,000,000	19,920	83,000	102,920	60,010
1,250,000	24,920	110,500	135,420	77,510
1,500,000	29,920	138,000	167,920	95,010
1,750,000	34,920	168,000	202,920	112,510
2,000,000	39,920	198,000	237,920	130,010

Income Tax Law

Analysis and Comment

The Sixteenth Amendment to the Federal Constitution became effective in February, 1913, and gave to Congress the power "to levy and collect taxes on incomes from whatever source derived," etc. In October, 1913, the former Income Tax Law became effective, and in January, 1916, the Supreme Court of the United States upheld its constitutionality in the case of *Brushaber vs. Union Pacific Railroad*. The revised Income Tax Law, repealing the 1913 Statute, was enacted as part of a general revenue measure under date of September 8, 1916.

Individual Income Tax

Individuals are taxed and the provisions hereunder are applied accordingly as such individuals come within either of the two named classes:

**Taxable
Individuals**

- (a) Citizens of the United States wherever residing, and residents of the United States of whatever citizenship;
- (b) Non-resident aliens as to the United States.

The taxable income of citizens or residents of the United States includes that which arises from every source within or without the United

A N A L Y S I S A N D C O M M E N T

States; taxable income of non-resident aliens includes only that which arises within the United States.

Rates of
Tax

Normal
Tax

The Nineteen Thirteen Statute levied a basic or normal tax of one per cent. and a surtax or so-called additional tax ranging from one to six per cent. The present Law increases the normal tax to two per cent. and makes effective additional rates of from one to thirteen per cent., i.e., a total tax beginning at two and increasing to a maximum of fifteen per cent. The additional tax, aside from the normal tax of two per cent., is graduated and levied as follows:

Additional Taxes (Surtaxes)	1%	} on taxable income exceeding	\$ 20,000	} but not exceeding	\$ 40,000
	2%		40,000		60,000
	3%		60,000		80,000
	4%		80,000		100,000
	5%		100,000		150,000
	6%		150,000		200,000
	7%		200,000		250,000
	8%		250,000		300,000
	9%		300,000		500,000
	10%		500,000		1,000,000
	11%		1,000,000		1,500,000
	12%		1,500,000		2,000,000
	13%		2,000,000		

Deduction
at the
Source

The principle of deduction at the source is retained in the new Law and in the case of individuals relates only to the normal tax. The new Statute with the revised rates applies to taxable income of the present calendar year 1916, but until January 1, 1917, there will be

deducted at the source only the one per cent. normal tax provided by the previous Law. It should be made entirely clear that the revised Statute levies a two per cent. normal tax on income for the year 1916, but during this year only one per cent. is subject to deduction at the source, and provision for the payment of the remaining one per cent. of this year's normal tax will be arranged in all probability by the Treasury Department revising the blank for the individual return of income for the year 1916.

The revised Statute continues to allow a specific or personal exemption of \$3,000 to each unmarried person, and \$4,000 to a married person living with husband or wife; not more than a total of \$4,000 may be claimed by a husband and wife living together. As the present Statute does not change the former one in this respect, it may be noted that in the view of the Treasury Department, \$3,000 each or a total of \$6,000 may be claimed by husband and wife when they are separated and living permanently apart. In respect to the computation of the additional tax the Treasury Department has ruled that the separate income of husband and wife should be taxed separately and not as one income; for example, the normal tax only would be imposed upon a husband's net income of \$19,000 and his wife's net income of \$10,000.

Specific
or Personal
Exemption

Husband
and Wife

**Non-Resident
Aliens**

In the view of the Treasury Department the old Law did not extend the specific exemption to non-resident aliens, but the revised Statute permits this allowance to all classes of taxable individuals. It is stated that a non-resident alien shall not be allowed this exemption unless he file a return including his total income derived within the United States. There seems to be no practical point, however, in this stipulation as the Statute requires his return regardless of the allowance of the \$3,000 or \$4,000 specific exemption.

**Head of
Family**

The former Law is also changed in that the head of a family is given a \$4,000 exemption, and estates during the period of administration or settlement, as well as trusts or other estates from which the income is not distributed annually or regularly, are allowed a specific exemption of \$3,000. This \$3,000, however, shall include the ordinary deductions allowed by the Statute such as taxes, interest paid, losses, etc. In this connection obviously it is not the intention of the Statute to limit such estates and trusts to total deductions of \$3,000. Guardians or trustees are permitted to take advantage of the personal exemption on behalf of each ward or cestui que trust to the amount of \$3,000 or \$4,000 as the case may be.

**Estates and
Trusts**

**Applies to
Normal
Tax Only**

The present Statute allows the specific exemption of \$3,000 or \$4,000 only in the computation of the normal tax. The Treasury De-

ANALYSIS AND COMMENT

partment ruled to the same effect under the old Law, although there appeared to be some difference of opinion as to whether this exemption could not be availed of in respect to the additional as well as the normal tax.

Assuming a taxable net income of \$100,000 and a specific exemption of \$4,000, the tax hereunder would be computed as follows:

Example
of Computing
Tax

Normal Tax:

2% on \$96,000 (i. e., net income of \$100,000,
less \$4,000 specific exemption).....\$1,920

Additional Tax:

1% on \$20,000 (i. e., amount exceeding
\$20,000 and not exceeding \$40,000).... 200

Additional Tax:

2% on \$20,000 (i. e., amount exceeding
\$40,000 and not exceeding \$60,000).... 400

Additional Tax:

3% on \$20,000 (i. e., amount exceeding
\$60,000 and not exceeding \$80,000).... 600

Additional Tax:

4% on \$20,000 (i. e., amount exceeding
\$80,000 and not exceeding \$100,000)... 800

TOTAL TAX\$3,920

At the beginning of this analysis is given a table which indicates the amount of tax imposed upon net incomes by the revised Statute as compared with the previous Law.

Disregarding for the moment the exemptions and deductions allowed by the Statute, the net income of individuals is stated to include gains,

Income
Defined

A N A L Y S I S A N D C O M M E N T

profits, and income derived from every source whatsoever, and specifically from:

- (a) Salaries, wages or compensation for personal service of every kind and in whatever form paid;
- (b) Professions, vocations, businesses, trade or commerce;
- (c) Sales or dealings in property, real or personal, as well as income growing out of the ownership, use or interest in such property; and,
- (d) Interest, rent and dividends.

Calculating
Sale
Profits

In ascertaining the gain derived from the sale or other disposition of securities, real estate, or other property acquired before March 1, 1913 (the date from which the tax applied to income under the previous Law), the fair market price or value of such property as of that date shall be the basis for determining the amount of the gain.

"Accrued
Interest"

It seems of practical value to note herein in respect to "accrued interest" on bonds, that according to Treasury ruling under the previous Law, the owner of bonds at the time the interest becomes due and payable should only account in his return for the interest which accrued after the bonds were purchased by him. The former owner should account in his return for the interest which accrued during his ownership of the bonds.

Keeping
Individual
Accounts

The new Law grants considerable latitude to an individual in the keeping of his accounts.

It is provided that he may do this upon some other basis than that of actual receipts and disbursements. Subject to regulations to be later prescribed, he may make his return on the basis of his accounts as thus kept if they clearly reflect his income.

Individual income in the form of dividends or net earnings of corporations and associations is treated according to whether the corporation or association is taxable under the corporation sections of this Law; and in general such organizations are taxable when organized in the United States, no matter where operating, and when organized in other countries but operating in or deriving income from the United States. Inasmuch as a corporation pays out of its net earnings a two per cent. tax on the amount of dividends distributed by it, this form of income is not subject to the normal tax in the hands of individuals, but is liable to any additional taxes hereunder. Dividends from non-resident organizations which are not subject to the corporate provisions of the Act are liable to both normal and additional taxes in the hands of citizens and residents of the United States, but obviously are not taxable in the hands of non-resident aliens.

Dividends

When
Taxable

The Act defines dividends as including any distribution made or ordered to be made by a corporation or association out of its earnings or profits which have accrued since March 1,

Dividends
Defined

1913, and conversely it may be assumed that dividends are not taxable if paid out of earnings which accrued before March 1, 1913; this is a departure from the rule in effect heretofore which required the payment of any taxes due on dividends, regardless of the time of accrual to the corporation of the profits or earnings from which such dividends were paid. The revised Statute further provides that stock dividends shall be considered as income and, although the old Law contained no such provision, the tax was nevertheless imposed thereon by virtue of Treasury Decisions which seemed to rest upon the Act's broad definition of income.

Corporations
Organized
to Escape
Tax

The Statute contemplates a corporation or association formed or fraudulently availed of to escape tax hereunder by permitting the profits of such a corporation to accumulate instead of being divided or distributed. This is the same provision which appeared in the previous Law and Congress has evidently kept in mind the growing popularity of incorporating estates, individuals, etc. The fact that such a corporation or association is a mere holding company or that its gains and profits are permitted to accumulate beyond the reasonable needs of the business shall be prima facie evidence of a fraudulent purpose to escape the tax, but the proviso is added that the mere fact of the gains and profits accumulating and

becoming surplus shall not be construed as evidence of a purpose to escape the tax unless the Secretary of the Treasury shall consider such accumulation unreasonable for the purposes of the corporation. Upon request by the Commissioner or any Collector of Internal Revenue such a corporation or association shall file with the official requesting the same a statement of its profits, and the names and addresses of the individuals entitled thereto. To the extent of any individual's share therein, the profits of such a corporation whether distributed or not are declared to be income subject to the additional tax.

The estate of a deceased person is treated as an entirety and is so taxed for the period of its administration or settlement. The income of estates or any kind of property held in trust appears to be likewise taxable, including income accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests; also income held for future distribution under the terms of a will or trust. In many instances the practical effect of taxing an estate or trust in its entirety, rather than according to the several or individual shares therein, will be to increase materially the income taxes on the estate because of the rapid progression of the additional tax; however, income distributed to beneficiaries an-

Estates
and Trusts

nually or regularly is subjected only to the tax on the individual shares. Any tax hereunder shall be levied against the representative of the estate or trust unless return of such income is made by the beneficiary.

**Exempt
Income**

The Statute provides that certain so-called income shall be exempt from tax including, among items more fully discussed hereinafter:

Proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured;

Return premiums (commonly called "dividends") which were previously paid by the insured under life insurance, endowment or annuity contracts (It should be remarked here that "dividends" from paid-up policies are considered income and should be regarded and reported as ordinary dividends);

Value of property acquired by gift, bequest, devise or descent, although the income from such property is not exempt;

The compensation of the present President of the United States during the remainder of his present term, and of the Judges of the Federal Courts in office on September 8, 1916; also the compensation of all officers and employees of a State or any political subdivision thereof, except insofar as such compensation is paid by the Federal Government.

**Municipal
Bonds
Exempt**

Municipal bonds are exempt from all taxes hereunder, additional as well as normal, it being provided by both the revised and the old Statutes that the obligations of a State or any political sub-division thereof, or of the United States or its possessions, shall not be subject

to income tax. It is assumed that Congress has allowed this exemption primarily for constitutional reasons, there being many cases which indicate, if indeed they do not hold, that the taxation of municipal bonds is a burden on the municipality itself and thus an unjust and improper imposition. In this connection it may be worth noting that according to Treasury ruling, "political sub-division" includes special assessment districts or divisions of a State created by proper State authority for a purpose of a public nature such as street improvements, public highways, sewerage, gas and light, and the reclamation, drainage or irrigation of public lands. In this view the obligations of the above public districts are not subject to income tax. It will be recalled that, according to the present regulation of the Department, municipal bonds of the various classes exempt hereunder need not be mentioned in the individual's annual return of income.

Political
Sub-divisions

The Federal Farm Loan Act, approved July 17, 1916, "to provide capital for agricultural development," etc., authorized and made provision for Federal land banks, joint-stock land banks, and other allied agencies, and also for the issuance of farm loan bonds. These farm loan bonds are declared to be exempt from income tax.

Farm
Loan
Bonds

**Deductions
Allowed
Citizens
and
Residents**

In computing the net income of a citizen or resident of the United States the following general deductions are definitely authorized:

- (a) Necessary expenses actually paid in carrying on a business or trade, not including personal, living, or family expenses;
- (b) All interest paid on his indebtedness;
- (c) Taxes paid such as were imposed under the authority of the United States, or its territories or possessions, or of any State or taxing subdivision thereof, not including assessments against local benefits; also under the authority of any foreign country;
- (d) Losses actually sustained during the year, incurred in the business or trade of the taxpayer or arising from fire, storm, or similar casualty, or from theft, when such losses are not compensated for by insurance or otherwise;
- (e) Debts due and actually ascertained to be worthless and charged off within the year;
- (f) A reasonable allowance for depreciation of property employed in business; oil and gas wells and mines are especially considered but the Statute provides in that connection that no further allowance shall be made after the total amount deducted hereunder shall equal the capital originally invested therein, or in the case of purchase prior to March 1, 1913, the fair market value as of that date; the cost of new buildings, permanent improvements, etc., shall not be deducted, and no deduction shall be made for the expense of restoring property on which an allowance is or has been made;
- (g) Losses sustained in transactions entered into for profit but not connected with the taxpayer's business or trade, such losses not to exceed the profits arising therefrom.

**Computing
Losses**

As in the case of computing profit from the sale of real or personal property acquired be-

fore March 1, 1913, any loss therefrom shall be computed on the basis of the fair market value of such property as of that date.

“Losses in trade” have been the subject of much controversy under the previous Law. The interpretation of that Statute by the Treasury Department has been that losses incurred in a business other than that of the taxpayer were not deductible in arriving at his net income even though the profits arising from similar business dealings were required to be included as taxable income. This interpretation had a direct and in many cases an unfair application to dealings in securities by persons not engaged in their purchase and sale as a regular business. The present Statute, however, seems to definitely contemplate security and similar transactions by an individual not engaged in such transactions as a matter of his regular business; and apparently he is now allowed to deduct such losses as he may have in that connection provided the losses do not exceed the total amount of profits arising within the year from transactions “entered into for profit but not connected with his business or trade.”

“Losses
in Trade”

On account of the more than usual practical importance of the subject of deductions allowed individuals hereunder, there are included in these comments the general purport of several

Treasury
Decisions
Regarding
Deductions

Treasury decisions rendered under the previous Law:

Income tax paid in any year is deductible in the return made in the following year. This may include any such tax deducted at the source. Customs duties paid during the year by an individual are allowable deductions as taxes, or if the individual be engaged in the importation of goods and merchandise, then as part of the cost price thereof.

A bad or worthless debt as contemplated by the Statute is a debt which has been actually ascertained to be worthless and charged off within the tax year.

Premiums paid on life insurance by the insured do not constitute allowable deductions for individuals.

Depreciation relates only to physical property subject to wear and tear and obsolescence.

An individual is not permitted to include as a deduction hereunder the rental value of the property which he owns and occupies, nor is he permitted to deduct from his gross income the interest which the capital invested or employed therein would earn were it otherwise invested. Income from rental of property is taxable, but in computing it a deduction may be made for such expenses as premiums on fire insurance and a reasonable allowance for depreciation. This allowance for depreciation cannot be made on property occupied by the owner as a dwelling.

Deductions
Allowed
Non-resident
Aliens

The Statute provides a separate list of deductions for non-resident aliens in the calculation of their net income subject to tax. Most of these deductions are identical with those allowed citizens or residents of the United States except that the non-resident alien's deductions are in respect only to his business or interests

in the United States; as for example, the non-resident alien may deduct such taxes as were imposed by authority of the United States or sub-division thereof, but not those imposed by any foreign government. Such differences as these have not been detailed. Exceptions, more or less, to the general basis of differences in allowing deductions as above mentioned are:

A non-resident alien individual is allowed to deduct actual losses sustained in transactions entered into for profit and not connected with his business or trade up to the amount of "profits accruing therefrom in the United States;" and,

He may deduct that proportion of all the interest paid on his indebtedness which his gross income in the United States bears to his gross income from all sources, within and without the United States; this allowance for interest, however, is made only if his annual return of income include "all the information necessary for its calculation."

Partnerships as such are not taxed, but the members thereof are liable individually for their share of the firm's profits for the year, whether divided or undivided, and are required to include such income in their individual returns; the present rule of the Treasury Department will be followed undoubtedly in allowing partners to exclude from their return of income any of the firm's profits distributed to them in the current year and on which, in the form of undistributed profits, they have already paid a tax. The Statute provides that from the net distributive interests of the indi-

Partnerships

**Only
Members
Taxable**

vidual partners in the firm's profits there shall be excluded their proportionate shares of the following:

Deductions
Allowed

- (a) Interest on obligations of the United States and its possessions, or of a State or any political or taxing subdivision thereof;
- (b) Taxes paid to the United States or its possessions, or to any State or taxing subdivision thereof;
- (c) In respect to the normal tax, profits derived from dividends of corporations subject to the terms of the Act.

Previous
Rulings

The subject of partnerships has been somewhat of a maze since the enactment of the previous Statute and while many changes have been made it does not appear certain that all of the old ambiguities have been removed. The last expression of the Treasury Department under the previous Statute was that individual members of partnerships should not deduct their proportionate shares of income received from interest on municipal bonds or from dividends received by the partnership itself; that is, the members as individuals were held to be taxable thereon. In accordance with (a) and (b) above, the revised Law allows to partners the exemption of both classes of income; but it appears disconcerting to have the Statute authorize specifically the deduction of such taxes as are levied and paid within the United States when individuals in general are allowed deductions for taxes wherever paid, and also to have the Statute silent at this juncture about

What
Other
Deductions
Allowed

other similar and apparently proper deductions allowed individuals such as expense of carrying on business, interest paid on indebtedness, losses sustained, etc. It is probably true, however, that the Statute is broad enough and will be so construed by the Treasury Department as to generally allow the partnership those deductions which are granted to individuals.

Upon request by the proper Federal authorities a partnership shall render a return of its gross income, deductions and credits allowed, and the names, addresses, and respective interests of the several partners. This would seem to be the provision furnishing the most likely indication that partnerships are intended to be subject to the same regulations hereunder regarding income, deductions and the like, as would apply to the business of an individual. Nothing is definitely stated on the point, but it appears logical that in accordance with the present view of the Department, deduction at the source will not be applied to income paid to partnerships.

Partnership
Return on
Request

The method of assessment and payment of the tax, as well as the making of returns, are substantially the same as in the old Law, and in many respects these provisions are identical. Persons, firms, companies, co-partnerships, corporations and associations in any way entrusted with the fixed or determinable annual

Deduction
at the
Source

or periodical income of another person exceeding \$3,000 for any taxable year, other than income derived from dividends of taxable corporations hereunder, are authorized and required to deduct the normal tax from such income. In addition to the general provision above stated the duty of withholding is specifically placed upon lessees or mortgagors of real or personal property, trustees, executors, receivers and employers. The withholding agent is made personally liable in case of failure to withhold the tax; and he is required to make a return of the tax withheld and shall state the name and address of the person if known and shall pay the tax to the Federal Government.

Tax
Deducted
from Bond
Interest

Both Statutes, old and revised, have provided that the normal tax shall be deducted and withheld from interest upon bonds and mortgages or similar obligations of corporations, joint stock companies, associations and insurance companies, even though such interest does not amount to \$3,000.

Tax Free
Covenants

A large proportion of the outstanding mortgages or other indentures of American corporations contain a provision in substance that the principal and interest of the bonds or other obligations secured thereby shall be paid without deduction for any tax or taxes which the company may be required to pay or deduct therefrom under any present or future law of the United States. The weight of published

opinion has been that this makes the corporation liable for the normal tax as imposed under the provisions of both the revised and previous Laws and for whatever reasons, legal or practical, corporations generally have been paying the normal tax on presentation of proper certificates. As a practical point, it may be noted here that in respect to the income tax it appears to be generally agreed that the essence of the average "tax free" covenant is that the corporation assumes no liability beyond the payment of such tax as is deducted at the source; and in this view, the corporations operating under agreements of this precise character would pay no more than the one per cent. tax deducted during the calendar year 1916.

As to
Year 1916

Prior to the passage of the previous Income Tax Law in 1913, there was some discussion of this matter of tax free covenants in corporate mortgages. The view prevailed in some quarters that corporations should be prohibited by law from making any new agreements of this sort. As then passed, the Law contained the provision of somewhat uncertain scope that "no contract entered into after this Act takes effect (shall) be valid in regard to any Federal income tax imposed upon a person liable to such payment." There has been some diversity of opinion as to whether the quoted provision of the old Law prevented corporations from including the tax free covenant in any new mort-

Under
Previous
Law

gage or other indenture executed by them. As a consequence it has not been unusual for corporations since the enactment of the Nineteen Thirteen Act to agree to pay the income tax subject to deduction at the source as and to the extent that they might lawfully do so.

Under
Present
Law

The new Statute has now repealed the old Law including the above quoted provision, and contains no prohibition against the inclusion of any tax free covenant in corporate mortgages. Some of the early prints of the Bill, including that originally passed by the Senate, prohibited such agreements in new mortgages, but no prohibition appeared in the House Bill or in the Law as finally passed.

Non-resident
Aliens
—
Taxable
Income

By definition in the Act, income accruing to non-resident aliens from "sources within the United States" shall include interest on bonds, notes and other interest-bearing obligations of residents of the United States, corporate or otherwise; and as a consequence such income is declared to be taxable. As a practical matter, however, in view of the tax free covenant in most American corporate mortgages, it appears that the interest on a very large proportion of such American corporate bonds and similar obligations may be exempt from our income tax in the hands of practically all non-resident aliens, corporate and individual. Relatively few individual non-resident aliens derive incomes of more than \$20,000 a year from taxable Ameri-

can sources, and thus the very large percentage of such individuals would be subject only to the normal tax, which, under the tax free covenants, is now being generally paid by the corporations. Non-resident corporations and similar organizations are subject only to the two per cent. corporation tax referred to herein-after, and as the system of deduction at the source now applies to income paid to them in the form of interest on American corporate bonds, it would seem that the entire income tax thereon would be paid by those American corporations which assume such tax as is subject to deduction at the source. As a practical matter, it seems also that dividends of American corporations received by non-resident alien individuals would be free of tax in respect to those individuals not subject to the additional tax hereunder.

Certain
Bonds
Tax Free

Dividends

Subject to the same qualifications which apply in the case of citizens and residents, dividends as well as interest are taxable in the hands of a non-resident alien, and according to the Statute are to be included in his return, except only if dividends are derived from "sources without the United States." Obviously this phrase excludes in the case of the non-resident alien those dividends from corporations of other countries which are not subject to our corporate income tax provisions; but the Treasury Department may need to rule on

When
Dividends
Are
Taxable

the extent of his liability, if any, in respect to dividends of a foreign corporation which receives a portion of its gross income from sources within the United States. The Department may feel that such income may not be traced behind the source of the corporation itself which is "without the United States"; and such a view might be in line with the ruling under the old Law that members of a partnership could have no benefit of the exemption extended to municipal bond interest, etc., because that income had accrued to the partnership as such and could not be traced behind that source.

Agents
May Act
for
Non-resident
Aliens

Under any rulings by the Treasury Department as to the new Law, it is to be presumed that properly authorized agents within the United States may execute the certificates required in the collection of bond interest on behalf of non-resident alien owners. Such representatives will need to observe carefully any new regulations by the Department as to the extent of their duties; under the old Law they are charged with many responsibilities, such as the reporting of profits from sales of personal property within their charge.

Collection
of Foreign
Payments

The Act lays special stress upon deducting the normal tax at the source on coupons, checks, or bills of exchange in payment of dividends on the stock of foreign corporations, interest upon the obligations of foreign mort-

gages, foreign corporations, foreign countries, etc., and regardless of the amount of such interest or dividends, the tax is to be withheld by any of the three named classes:

- (a) Any banker or person who shall sell or otherwise realize upon coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends not payable in the United States;
- (b) Any person who shall obtain payment not in the United States, on behalf of another, by means of any such above defined evidence of the right to payment; and,
- (c) Any dealer "in such coupons" who shall purchase any such evidences of the right to payment otherwise than from a banker or "another dealer in such coupons."

Under penalty of fine or imprisonment or both, all persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends shall obtain a license from the Commissioner of Internal Revenue and shall be subject to the prescribed regulations.

License
for Foreign
Collections

The income tax is computed for the calendar year; and on or before March first in the year thereafter a return of income with deductions authorized shall be made by each person of lawful age, except as otherwise provided herein, who has a net income of \$3,000 or over for the calendar year. This return shall be filed with the Collector of Internal Revenue for the district in which such person has his legal residence or his principal place of business, or if he

Annual
Return of
Income

have no legal residence or place of business in the United States, then with the Collector of Internal Revenue at Baltimore, Maryland.

**Dividends
Reported**

The revised Law provides that all returns shall include income derived from dividends of every corporation, association, etc., except that non-resident aliens as mentioned hereinbefore need not report income derived from "sources without the United States." Under the previous Law it was held by the Treasury Department that an individual was not required to report dividends of domestic or other corporations subject to the Statute if he had a total net income of less than \$20,000, and less than \$3,000 of net income from sources other than such dividends. Apparently it was considered a convenience by some individuals to have income in the form of dividends as it was possible to have up to \$20,000 net income without making report thereon, but any such advantage now appears to have been destroyed by the new Law which requires individual returns to include dividends. This will increase the number of individuals who are required to make annual return of their income hereunder even though they are not liable for the payment of any income tax.

**Returns by
Agents**

A person who is unable to make his annual return of income on account of illness, absence, or non-residence may have such return made by an agent on his behalf, but the agent must

assume all responsibilities in reference thereto, including the penalties provided for erroneous, false or fraudulent return.

Guardians, executors, and all other persons, corporate or otherwise, acting in a fiduciary capacity, are required to make a return of the income of a person, trust, or estate for whom or which they act, and are generally subject to the Statute's provisions relating to individuals. The fiduciary filing such a return shall make oath that he has sufficient knowledge of the affairs of the person, trust, or estate on whose behalf he acts to enable him to make the return, and further, that such return is true and correct to the best of his knowledge and belief. This dual form of oath appears somewhat curious but is according to the Statute. In this connection, it is required only that a return be filed by one of two or more joint fiduciaries.

Returns by
Guardians
and Others

The Commissioner of Internal Revenue is given authority in meritorious cases to grant a reasonable extension of time for filing returns by persons residing or traveling abroad. The old Statute limited this extension to thirty days, which, seemingly, may now be extended in the discretion of the Commissioner. The Collector of Internal Revenue may also allow an extension not to exceed thirty days in the filing of a return on account of sickness or absence.

Extension
of Time
for Returns

A N A L Y S I S A N D . C O M M E N T

**Assessment
and Payment**

Assessments shall be made by the Commissioner of Internal Revenue, and all persons shall be notified of their tax liability on or before June first, following the tax year. Such taxes shall be paid on or before June fifteenth; the date of payment under the previous Law was on or before June thirtieth.

**Claiming
Deductions**

In respect of the normal tax which is paid or to be paid at the source, no person shall be allowed the benefit of any deduction hereunder, such as for taxes, losses, etc., unless he shall file a statement in substantially the form of his annual return of income, either with the withholding agent or with the Collector of Internal Revenue; obviously such a statement including practically all of the annual return of an individual cannot be prepared until the close of the year and the Statute requires that it shall be filed with the withholding agent or Collector not later than thirty days prior to March first following the tax year. The previous Statute was similar in this respect, but the revised Law adds the very convenient provision that when any amount allowable as a deduction is known at the time the person receives fixed annual or periodical income, he may file an appropriate statement claiming the allowance with the person or corporation making such payment to him; and thereupon the payment or proper part thereof shall be made without deduction of tax.

A N A L Y S I S A N D C O M M E N T

The Statute further provides in respect to the tax paid or to be paid at the source, that a person shall not receive the benefit of the specific exemption of \$3,000 or \$4,000 except by filing an appropriate claim with the withholding agent not less than thirty days prior to March first following the tax year, or by application for a refund of the tax. It appears that in the case of serious illness or absence from the United States the applications and returns hereinabove referred to may be made by an agent on behalf of the taxpayer, subject of course to the usual provisions as to form of oath and liability of agents.

**Claiming
Specific
Exemption**

Corporation Income Tax

Former Corporate Income Tax Laws

Corporate net income in the United States has been subject to tax continuously since the enactment of the so-called Corporation Excise Tax Law of 1909. In its effect that Statute levied a one per cent. tax on corporate net income, after allowing an exemption of \$5,000. The Income Tax Law of 1913 also levied a one per cent. tax on such net income, and in its corporate provisions was substantially the same as the old Excise Tax Statute, excepting, however, that the \$5,000 exemption was eliminated.

Present Statute

The corporate provisions of the present Income Tax Law, approved September 8, 1916, make a number of changes in the former Statute and increase the tax to two per cent. No amount of net income as defined by the Act is exempt from tax, but surtaxes, or so-called additional taxes, are not imposed upon corporations. The revised law and the two per cent. tax thereby imposed apply to income of the calendar year 1916.

Organizations Taxable

The organizations taxable hereunder are divided into two classes:

- (a) Corporations, joint stock companies or associations, or insurance companies organized in the United States (generally referred to in these comments as domestic organizations);
- (b) Similar organizations authorized, organized or existing under the laws of any foreign country (generally referred to as foreign organizations).

Generally speaking, domestic organizations are taxable upon their defined net income derived from every source within and without the United States; foreign organizations are taxable only as to their net income received from all sources within the United States.

It is provided in the revised Statute, as well as in the previous Law, that partnerships are not taxable under the corporation section; but limited partnerships in the view of the Treasury Department have been subject to tax as corporations under the old Law, and presumably that view will obtain under the present Statute.

Partnerships

The following organizations are declared to be non-taxable under the Act:

Non-taxable
Organizations

- (a) Labor, agricultural or horticultural;
- (b) Mutual savings bank not having a capital stock represented by shares;
- (c) Fraternal benefit society operating under the lodge system, which provides payment of benefits to its members, or is operated for the exclusive benefit of the members of a similar society;
- (d) Domestic building and loan association or co-operative bank without capital stock, organized and operated for mutual purposes and without profit;
- (e) Mutual benefit cemetery association;
- (f) Farmers' or other mutual hail, cyclone, or fire insurance company; mutual ditch or irrigation company; mutual or co-operative telephone company; or like organization of a purely local character the income of which consists solely of members' contributions for the sole purpose of meeting expenses;

- (g) Farmers', fruit growers', or like association, acting as sales agent in marketing the products of its members;
- (h) Corporation or association organized exclusively to hold title to property, collect income therefrom, and to turn over the entire amount thereof, less expenses, to an organization exempt from tax hereunder;
- (i) Federal land bank or national farm-loan association as authorized by Act of July 17, 1916; or, joint-stock land bank authorized under the same Law, in respect to income derived from bonds or debentures of other joint stock land banks or any Federal land bank;
- (j) Civic league operated exclusively for the promotion of social welfare and not for profit.

The following additional organizations are declared to be non-taxable if no part of their net income accrues to an individual:

- (k) Exclusively religious, charitable, scientific or educational corporation or association;
- (l) Business league, chamber of commerce, or board of trade, not organized for profit;
- (m) Pleasure, recreation, or club of other non-profitable purpose.

**Exempt
Income**

The interest from municipal bonds is exempt from tax in the hands of all corporations and other organizations, foreign or domestic, as well as in the hands of individuals. The annual return blank used by corporations under the previous Statute required the inclusion of such income, but apparently only for statistical purposes, inasmuch as this income was not considered in the computation of their net income subject to tax. Corporations may also have the

benefit of other exemptions provided by the Statute, in so far as they may be appropriate to a corporation, as, for instance, any securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916.

No tax hereunder shall be levied on income derived from any public utility or from the exercise of any essential governmental function which accrues to the District of Columbia or to any State or Territory, to the Philippine Islands or Porto Rico, or to any political subdivision of the foregoing. This exemption is made broad enough to apply to that proportion of the income of public utilities to which any of the above-named governmental agencies may be entitled under any contract, entered into in good faith and antedating this Law, for the acquisition, construction, operation or maintenance of such public utility. Obviously this exemption does not extend to the income of the person or corporation making such a contract with the governmental agency.

Public
Utility
Income

In general, dividends accruing to a corporation are taxable hereunder, even though the corporation declaring and paying such dividends has already been taxed on the amount of its net income represented by the dividend. It seems to be clear from the Statute, however, that only such dividends are taxable hereunder as have been paid out of earnings or profits accrued since March 1, 1913.

Dividends
Taxable

Defined

Foreign
Organizations

Interest
and
Dividends

Computing
Sale
Profit or
Loss

Deductions
Allowed
Domestic
Organizations

The revised Statute provides that foreign organizations shall be taxed as to interest on bonds or other interest-bearing obligations of residents, corporate or otherwise, and as to dividends on the capital stock of resident corporations and other associations whose net income is taxable under the Law.

Profits accruing to a corporation from the sale or other disposition of any kind of property acquired before March 1, 1913, shall be calculated on the basis of the fair market value of such property as of that date. Losses resulting from similar transactions shall be calculated on the same basis.

A domestic organization shall be allowed the following general deductions in the computation of its net income subject to tax:

- (a) Ordinary and necessary expense of maintenance and operation of business and properties, including necessary rentals or other payments for property to which the corporation has no title, etc., and in which it has no equity;
- (b) Losses actually sustained and charged off and not compensated for by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use in the business or trade; oil and gas wells and mines are especially considered, but in this connection the Statute provides that no further allowance shall be made after the total amount deducted hereunder shall equal the capital originally invested therein, or in the case of purchase prior to March 1, 1913, the fair market value as of that date; the cost of new buildings, permanent improvements, etc., shall not be

deducted, nor shall there be any deduction for the expense of restoring property on which an allowance is or has been made;

- (c) Amount of interest paid on its indebtedness, but the amount of indebtedness in respect to which the interest may be deducted hereunder shall not be in excess of the sum of:

(1) The entire amount of paid-up capital outstanding at close of year, or if no capital stock, the entire amount of capital employed in business at close of year; and,

(2) One-half of its interest-bearing indebtedness then outstanding.

In respect to capital stock issued without par value, the amount of paid-up capital stock as understood in this connection will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares.

- (d) Taxes paid, such as are imposed by authority of the United States or its Territories or possessions, or any State or taxing subdivision thereof, not including assessments against local benefits; also taxes levied under the authority of any foreign country.

In respect particularly to the deduction of interest in computing corporate net income, the Statute provides that preferred stock shall not be considered as interest-bearing indebtedness. The deduction of the entire amount of interest is also provided for in the case of indebtedness wholly secured by collateral which is the subject of sale or hypothecation by a corporation or other organization which is "a dealer only in the property constituting such collateral"; but interest shall not be deducted on an amount of indebtedness in excess of the actual value of

Computing
Interest
Deductions

the collateral. No deduction shall be allowed a corporation for any tax paid pursuant to a guarantee that the interest on bonds or other indebtedness shall be free from taxation. A bank, loan or trust company shall be allowed to deduct interest paid on deposits or moneys received for investment and secured by the interest-bearing certificates of indebtedness issued by such bank, loan or trust company.

Special
Deductions
Allowed
Insurance
Companies

Insurance companies are allowed to deduct their net addition to reserve funds required by law, and "sums other than dividends paid within the year on policy and annuity contracts." Life insurance companies shall not include within their income that portion of a premium received from an individual policyholder as shall have been paid back or credited to him within the tax year. In this connection the Statute recites a number of provisions which apply to mutual fire, mutual employers' liability, mutual workmen's compensation, mutual casualty, and mutual marine insurance companies.

Life
Insurance
in Favor
of Cor-
porations

It is interesting to note in connection with deductions allowed corporations that according to ruling by the Treasury Department under the previous Law, premiums paid by such corporations on insurance policies issued in their favor on the lives of their officers or others are allowable deductions in computing corporate net income. In such cases, however, the pro-

ceeds of policies when paid at maturity or upon the death of the insured are required to be returned by such corporations as income for the year in which such proceeds were received.

The Statute provides a separate list of deductions for foreign organizations authorized, organized, or existing under the laws of any foreign country. Generally speaking the difference between the deductions allowed foreign organizations and those granted to similar domestic organizations as above discussed is that the foreign organization shall deduct only those items which have arisen in respect to its business or interests in the United States; for example, the only taxes deductible in the case of a foreign organization are such as have been authorized by the United States or a sub-division thereof, whereas a domestic organization may generally deduct taxes wherever paid.

A foreign organization shall compute the amount of interest paid on its indebtedness along the same lines laid down in respect to domestic organizations, but the foreign organization is allowed deduction of only such a proportion of that interest as the gross amount of its income on business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States. It may be noted also that no provision has been made for foreign organizations, as was

Deductions
Allowed
Foreign
Organizations

ANALYSIS AND COMMENT

made in the case of domestic organizations, for the deduction of the entire amount of interest in the case of indebtedness wholly secured by collateral which is the subject of sale or hypothecation by an organization dealing only in the property constituting such collateral.

Deduction
at the
Source

The system of deducting the tax at the source was not applied under the previous Statute to any form of income paid to corporations or other organizations whether foreign or domestic. The revised Statute, however, extends this system to foreign organizations in respect to dividends on the stock and interest on the bonds and similar obligations of American corporations. There is a slightly different classification of the foreign organizations from whose income the tax shall be deducted at the source, the difference depending upon whether the income is in the form of interest or dividends. The tax shall be deducted from domestic interest paid to "non-resident alien firms, co-partnerships, companies, corporations, joint stock companies or associations, and insurance companies," and from domestic dividends paid to "non-resident alien companies, corporations, joint stock companies or associations, and insurance companies."

When
System
Becomes
Applicable

There may be some doubt as to when withholding agents shall begin to deduct the appropriate tax from domestic corporate in-

terest and dividends paid to foreign organizations. If it should be deemed proper to deduct this tax immediately and not wait until January 1, 1917, probably only the one per cent. tax should be deducted. In respect to this entire subject, however, it seems likely that there may be comprehensive instructions issued by the Treasury Department.

As has been pointed out hereinbefore, foreign organizations are taxable on American dividends and corporate interest. As a practical matter, however, it appears that income accruing to foreign organizations in the form of interest on a very large proportion of American bonds may be actually exempt rather than taxable. To explain—all organizations hereunder are liable to only the two per cent. tax and that tax is now made subject to deduction at the source in respect to domestic corporate interest paid to foreign organizations; but, under the tax free covenants which appear in substantially all of the existing mortgages of American corporations, it appears likely that any such tax deducted at the source will be paid by the American debtor corporation.

It may be noted in this connection that inasmuch as the tax is not to be deducted at the source in respect to income paid to domestic organizations, the usual tax free covenant in American corporate bonds is of no practical benefit to American organizations receiving

Benefit of
Tax Free
Covenants

Foreign
Organizations

Domestic
Organizations

interest from such bonds. In other words, the debtor corporation under the usual tax free covenant assumes only such a tax as may be liable to deduction at the source.

Basis of
Corporation
Accounts

Corporations and other organizations are given wide latitude in the keeping of their accounts, the law definitely providing that the corporation's books may be kept on some other basis than that of actual receipts and disbursements. The Commissioner of Internal Revenue is given wide discretion in deciding whether or not the basis used clearly reflects the corporate net income.

Fiscal
Year

The calendar year is made the tax year for corporations as well as for individuals, but the revised Statute, like the previous Law, authorizes a corporation to designate the last day of any month as the close of its fiscal year which shall then be considered its tax year. A corporation which has a fiscal year different from the calendar year shall pay the two per cent. tax imposed by this Statute on the proportion of its net income which the period between January first and the end of its fiscal year bears to an entire year.

Corporate
Return

When
Filed

Every corporation or other organization subject to tax hereunder shall file its return in an appropriate form on or before March first following the calendar year in respect to which the tax is to be paid. Should the corporation have a fiscal year other than the calendar year,

A N A L Y S I S A N D C O M M E N T

its return shall be filed within sixty days after the close of its fiscal year as chosen. The return shall be sworn to by the President, Vice-President, or other principal officer, and by the Treasurer or Assistant Treasurer, and shall be filed with the Collector of the district in which is located the principal office of the organization. In the case of a foreign organization, its return shall be filed with the Collector of the district in which its principal place of business is located in the United States; or, if it has no such place of business or agency in the United States, then with the Collector of Internal Revenue at Baltimore, Maryland.

Where
Filed

The Commissioner of Internal Revenue is given authority to grant a reasonable extension of time for the filing of returns of corporations in such cases as appear to him to be meritorious. Under the previous law it was ruled by the Treasury Department that upon proper application in the case of sickness or absence of an officer whose signature to a return was required, the Collector of Internal Revenue might grant an extension of not more than thirty days of the time for filing the return.

Extension
of Time

The Treasury Department ruled under the previous Law that in cases where foreign corporations, or domestic corporations doing business in foreign countries, were unable to assemble their data in time to make their returns

of annual income within the prescribed time, it was permissible for such corporations, upon the showing of this fact, to file with the Collector of Internal Revenue a tentative return in which there should be approximated as nearly as possible the actual business transacted during the year. This tentative return was to be substituted by a true and accurate return as soon as the necessary data to make such return became available.

Returns by
Receivers
and Others

Receivers, trustees in bankruptcy, or assignees operating the property or business of organizations subject to tax hereunder, shall make returns in the usual form for the properties of which they have custody and control.

Assessment
and Payment
of Tax

Except in the case of corporations or other organizations having a fiscal year different from the calendar year, assessments shall be made and the notice thereof shall be given on or before June first following the tax year, and such tax shall be paid on or before June fifteenth. It will be recalled that the previous Statute allowed payment on or before June thirtieth. Corporations whose fiscal years are different from the calendar year shall pay their taxes within one hundred and sixty-five days after the close of such fiscal years.

Certain General Provisions

The Income Tax Law of October 3, 1913, is repealed by this Statute except as otherwise provided, and except that the previous Law shall remain in force for the assessment and collection of all taxes that shall have accrued thereunder and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to such taxes.

Previous
Law
Repealed

Annual returns shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and shall be open to inspection as such, but "only on the order of the President" and under regulations by the Secretary of the Treasury, etc. This language of the Statute indicates its application to both individual and corporate returns. It is worthy of note, however, that the provision is inserted in that portion of the Law entitled and relating to corporations; and, further, that the context is in relation to the returns of corporations. In respect to the annual returns it is also provided by the Statute that in accordance with the regulation of the Secretary of the Treasury, the Governor of a State imposing a general income tax may have access to the returns or an abstract thereof showing the name and income of each corporation, joint stock company or association, or insurance company.

Possible
Inspection
of Returns

A N A L Y S I S A N D C O M M E N T

Secrecy
of Returns

All Collectors of Internal Revenue and all other officers or employees of the United States are prohibited from making known any particular or fact disclosed in any income tax return, and any offence against this provision shall be a misdemeanor and shall be punishable by fine, or imprisonment, or both, and the offender shall be dismissed from office or discharged from the Government service.

Island
Possessions

It may be noted in closing that the Income Tax Law applies to Porto Rico and the Philippine Islands, and that all revenues collected by these jurisdictions shall accrue intact to the general Government of each respectively.

Estate Tax Law

Analysis and Comment

In conformity with what is generally regarded as a modern tendency in tax legislation, Congress has enacted a Federal Estate Tax Law as a part of its general revenue measure, approved September 8, 1916. Taxes on estates or inheritances are already imposed by substantially all of the several States, but the Federal tax is additional to such State taxes as may be applicable.

**Federal and
State Taxes**

The Federal tax is levied upon the estate as an entirety and not upon such distributive shares or separate parts thereof as may be provided by will or intestate laws. In this respect the inheritance tax laws of many States are different in that they generally impose a tax upon the several distributive shares or interests. Another dissimilarity is that it is more usual than otherwise for a State inheritance tax law to impose lower or higher rates of tax upon the various distributive interests of the estate depending not only upon the value thereof but upon the relationship between the decedent and the beneficiary. The rates imposed by the Federal Statute, however, are not altered by reason of relationship but are graduated solely according to the value of the net taxable estate. As a practical matter it will be observed that the effect of imposing the tax in

**Basis of
Taxation**

conformity with the system laid down in the Federal Law rather than in accordance with the usual State law will be to impose a higher rate of tax than would otherwise apply and thus substantially increase the taxes levied upon the average large estate.

**Estates
Taxable**

The Federal Tax is imposed on the transfer of the defined net estate of every individual dying after the passage of the Act. The rates are levied and the provisions are applied without regard to citizenship but according to whether the decedents were residents or non-residents of the United States; it being understood in this Statute that United States shall include the several States, the Territories of Alaska and Hawaii, and the District of Columbia. The estate of a resident decedent may be taxable under the Law regardless of the location of the decedent's property; but a non-resident estate may be taxable only to the extent that it is located within the United States.

**Rates of
Tax**

The rates of tax on net estates hereunder are as follows:

1%	on amount of net estate not exceeding . . .	\$50,000		
2%	} on amount of net estate earnings exceeding	{	} but not exceeding	150,000
3%				250,000
4%				450,000
5%				1,000,000
6%				2,000,000
7%				3,000,000
8%				4,000,000
9%				5,000,000
10%	on amount of net estate exceeding . . .			5,000,000

The gross estate of the decedent shall be valued as of the date of his death, and shall include whatever interest he had at that time in property, real or personal, tangible or intangible:

Gross
Estate
Defined

- (a) which is subject to the charges against his estate, including the expenses of administration, and which is subject to distribution as a part of his estate;
- (b) which was held jointly, or as tenants in the entirety, by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent.

Gifts or trusts created in contemplation of death are also considered in respect to gross estate. Excepting only in the case of a bona fide sale for value (according to the Statute "a fair consideration in money or money's worth"), the gross estate shall include any interest therein of which the decedent has made a transfer at any time, or with respect to which he has created a trust, either in contemplation of death or intended to take effect in possession or enjoyment at or after his death. In this connection it is apparently provided by the Statute that the burden is fixed upon the representative of an estate to prove that a transfer by the decedent was not made in contemplation of death—

Gifts in
Contemplation
of Death

A N A L Y S I S A N D C O M M E N T

- (a) if the transfer was effected within two years prior to the decedent's death;
- (b) if a fair consideration was not received for such transfer, in money or money's worth; and,
- (c) if the transfer consisted of a material part of the decedent's property in the nature of a final distribution thereof.

**In Respect
to Non-
residents**

The provision of the Statute in relation to the transfer of property or the creation of a trust in contemplation of death appears to be so applied to a non-resident estate that such property shall be deemed to be within the United States and thus subject to the provisions of the Act if the property was physically located here either at the time of transfer or creation of the trust, or at the decedent's death.

**Bonds in
Non-resident
Estates**

It seems to be a proper assumption from the Statute that American corporate and municipal bonds or like obligations owned by a non-resident at the time of his death shall not be subject to tax hereunder if such bonds or other evidences of indebtedness were physically outside of the United States on the date of the decedent's death. As to bonds thus owned and physically located within the United States on the date of the decedent's death, it seems likely, although not entirely certain, that the taxes hereunder would be applicable. It is

provided by the Statute that the stock of domestic corporations owned and held by a non-resident decedent shall be considered property within the United States and thus taxable hereunder.

Stock So
Held

The value of the net estate of a resident decedent is determined by deducting from his gross estate as hereinbefore defined:

Net Estate
of Resident

- (a) An exemption of \$50,000; and,
- (b) Funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate arising from theft and from fires or other casualty when such losses are not compensated for by insurance or otherwise, support of decedent's dependents during the settlement of the estate; also such other charges as are allowed by the laws of the jurisdiction under which the estate is being administered, whether within or without the United States.

The value of the net estate of a non-resident decedent is determined by deducting from his gross estate situated within the United States such a proportion of the deductions permitted to resident decedents noted under "b" above, as the value of the decedent's gross estate in the United States bears to the value of his gross estate wherever situated. It should be here remarked, however, that in order to have the benefit of these deductions, the representative of the estate shall include in his return to the Collector the value of the non-resident decedent's gross estate at the time of his death

Net Estate
of Non-
resident

whether situated within or without the United States.

Returns

By Whom
Filed

Returns are required by the Statute in respect to the following:

- (a) Resident estates subject to tax hereunder;
- (b) Resident estates exceeding \$60,000 value as to the gross estate at the time of the decedent's death;
- (c) Non-resident estates, any part of which is situated in the United States.

Such returns as are required to be made in behalf of estates shall be executed under oath and shall be filed in duplicate with the proper Collector of Internal Revenue at times and in form as prescribed by the Treasury Department. The details of such returns include:

**Details of
Returns**

- (a) Value of the gross estate at the date of decedent's death; or, in the case of a non-resident, that part of his gross estate situated in the United States. (It will be recalled from the above comments that deductions allowed by the Statute may not be availed of by a non-resident estate unless the return herein mentioned shall include the gross estate of the decedent, situated within and without the United States);
- (b) Deductions hereinbefore mentioned, such as expenses of administration, etc.;
- (c) Value of net estate;
- (d) Tax paid or payable thereon.

The filing of supplemental data is allowed as it is recognized that the representative of the estate may have only partial information at the time he is required to file his return. In case of inability to make a complete return as to

any part of the gross estate, the representative should include in his return a description of such part of the estate and the name of every person holding a legal or beneficial interest therein. Persons holding such an interest are required to make a return thereof when so notified by the Collector of Internal Revenue.

Returns shall be filed with the Collector of Internal Revenue of the district in which the decedent had his domicile at the time of his death. If such decedent was not domiciled in the United States the return shall be made to the Collector of the district in which his property in the United States is located; or, if such property is located in more than one district, then to the Collector of Internal Revenue at Baltimore, Maryland. The Treasury Department will probably rule as to the proper Collector in the case of a non-resident decedent whose sole property taxable hereunder is stock in an American corporation; the Collector at Baltimore may be chosen for this purpose.

The Collector of Internal Revenue or his deputy shall make return for the estate in case no administration is granted; likewise if no return is filed, or if the return contains a false or incorrect statement of a material fact.

It is provided by the Act that the Executor or other representative of the estate "within thirty days after qualifying as such, or after coming into possession of any property of the

Where Filed

**Return by
Collector**

**Notice
Required
of Estate's
Representative**

decident, whichever event first occurs, shall give written notice thereof to the Collector." The precise application of this provision does not seem entirely clear. Obviously it does not and as a practical matter cannot effectively apply to the representatives of non-resident estates which are not required to make return hereunder; and if the provision does not apply to the estates of non-residents which are not required to make return hereunder, the question may be pertinent as to whether a notification is required of the representatives of such resident estates as do not make return. On the other hand, the representative of an estate in many cases cannot know the amount of the gross estate, and thus whether a return is required hereunder, until after the expiration of the time required for the notice to the Collector as above mentioned. In view of the wording of the Statute, therefore, it may be deemed advisable, in respect of resident estates of whatever amount, for the representatives thereof to file proper notice with the Collector, unless and until the apparent meaning of the Statute is modified by Treasury regulation or otherwise. It seems reasonably certain that the Statute intends the notice to the Collector to be made by the representatives of all estates required to make returns hereunder, whether resident or non-resident.

A N A L Y S I S A N D C O M M E N T

The tax levied hereunder shall be due one year after the decedent's death, and shall be paid to the Collector with whom the return has been filed. Should the tax be unpaid within sixty days after it is due, excepting when there is reasonable cause for further delay, the Collector shall commence proceedings for the sale of the property of the decedent. In cases of payment before the expiration of one year after the decedent's death, a discount of five per cent. per annum shall be allowed on the period of such prior payment; if the tax is not paid within ninety days after the expiration of the year, a penalty of ten per cent. per annum shall be imposed, calculated from the date of the decedent's death. If the Collector finds the tax cannot be determined on account of claims against the estate, necessary litigation, or other unavoidable delay, the interest or penalty shall be at the rate of six per cent. per annum from the time of the decedent's death until the cause of delay is removed, and thereafter, at the rate of ten per cent. Litigation to defeat the payment of the tax shall not be deemed "necessary litigation" hereunder.

The Tax
—
When Due

Should the representative of an estate fail to pay such tax as may be hereby imposed upon any gifts or trusts created in contemplation of death, it seems that the transferee or trustee of such property shall be personally liable for the tax on that part of the property which

Liability of
Transferee or
Trustee

ANALYSIS AND COMMENT

Adjustment of Tax

belonged to the decedent at the time of the transfer or the creation of the trust.

In case the exact amount of tax cannot be determined for any reason, provision is made for the deposit of funds pending final settlement, the amount to be sufficient in the opinion of the Collector of Internal Revenue. When the tax is finally determined any excess deposited with the Collector shall be refunded by the Commissioner of Internal Revenue, and any additional amount due thereon shall be then paid; for non-payment of any additional amount due, a penalty of ten per cent. is imposed thereon, calculated from the date of notification. Provision is also made by the Statute for the reimbursement of any person who has paid a tax in order to protect interests involved.

Penalties

The penalty for false statement hereunder shall not exceed \$5,000, or imprisonment not to exceed one year, or both. Failure to comply with any duty imposed by the Statute shall subject the person liable therefor to a penalty of not exceeding \$500 and costs of action.

Lien Against Estate

— Exemptions

It is provided by the Statute that the lien of unpaid taxes hereunder shall rest upon the gross estate of the decedent for a period of ten years, except as to that part used for the payment of charges against the estate and the expenses of administration allowed by the court having jurisdiction. In some cases property of the estate sold to a bona fide purchaser for

value appears to be divested of this lien, but it seems advisable in these comments merely to draw attention to this possibility and to suggest that necessary rulings and possibly decisions by the courts may so interpret the Statute as to make its practical application unmistakable. A lien against the property of an estate for a period of ten years, and exemptions from such a lien, are obviously matters of considerable importance.

One of the fundamental features of the Law is the levying of the tax on the estate in its entirety; and it is interesting to note in that connection that the Statute expressly declares its intention to have the tax paid out of the estate itself before its distribution, rather than out of the distributive shares thereof, in so far as is practicable and unless otherwise directed by will. Subject to contrary ruling or decision, it therefore seems a fair inference, that in so far as the assets of the estate will permit, and unless otherwise directed by the testator, the separate bequests of a will shall not be charged with or decreased by the Federal Estate Tax.

Tax Paid
Out of
Estate

Income Tax Law

PART I.— On Individuals.

Persons
Liable

Sec. 1. (a) That there shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources by every individual, a citizen or resident of the United States, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources within the United States by every individual, a nonresident alien, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise.

Rates of
Surtax

(b) In addition to the income tax imposed by sub-division (a) of this section (herein referred to as the normal tax) there shall be levied, assessed, collected, and paid upon the total net income of every individual, or, in the case of a nonresident alien, the total net income received from all sources within the United States, an additional income tax (herein referred to as the additional tax) of one per centum per annum upon the amount by which such total net income exceeds \$20,000 and does not exceed \$40,000, two per centum per annum upon the amount by which such total net income exceeds \$40,000, and does not exceed \$60,000, three per centum per annum upon the amount by which such total net income exceeds \$60,000 and does not exceed \$80,000, four per centum per annum upon the amount by which such total net income exceeds \$80,000 and does not exceed \$100,000, five per centum per annum upon the amount by which such total net income exceeds \$100,000 and does not exceed \$150,000, six per

centum per annum upon the amount by which such total net income exceeds \$150,000 and does not exceed \$200,000, seven per centum per annum upon the amount by which such total net income exceeds \$200,000 and does not exceed \$250,000, eight per centum per annum upon the amount by which such total net income exceeds \$250,000 and does not exceed \$300,000, nine per centum per annum upon the amount by which such total net income exceeds \$300,000 and does not exceed \$500,000, ten per centum per annum upon the amount by which such total net income exceeds \$500,000, and does not exceed \$1,000,000, eleven per centum per annum upon the amount by which such total net income exceeds \$1,000,000 and does not exceed \$1,500,000, twelve per centum per annum upon the amount by which such total net income exceeds \$1,500,000 and does not exceed \$2,000,000, and thirteen per centum per annum upon the amount by which such total net income exceeds \$2,000,000.

For the purpose of the additional tax there shall be included as income the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of non-resident aliens such income derived from sources without the United States shall not be included.

Dividends
Subject
To Surtax

All the provisions of this title relating to the normal tax on individuals, so far as they are applicable and are not inconsistent with this subdivision and section three, shall apply to the imposition, levy, assessment, and collection of the additional tax imposed under this subdivision.

(c) The foregoing normal and additional tax rates shall apply to the entire net income, except as here-

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inafter provided, received by every taxable person in the calendar year nineteen hundred and sixteen and in each calendar year thereafter.

Income Defined.

Taxable
Income

Sec. 2. (a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever: *Provided*, That the term "dividends" as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of its cash value.

Dividends
Defined

Estates and
Trusts

(b) Income received by estates of deceased persons during the period of administration or settlement of the estate, shall be subject to the normal and additional tax and taxed to their estates, and also such income of estates or any kind of property held in trust, including such income accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests, and income held for future distribution under the terms

of the will or trust shall be likewise taxed, the tax in each instance, except when the income is returned for the purpose of the tax by the beneficiary, to be assessed to the executor, administrator, or trustee, as the case may be: *Provided*, That where the income is to be distributed annually or regularly between existing heirs or legatees, or beneficiaries the rate of tax and method of computing the same shall be based in each case upon the amount of the individual share to be distributed.

Such trustees, executors, administrators, and other fiduciaries are hereby indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this title, and they shall have credit for the amount of such payments against the beneficiary or principal in any accounting which they make as such trustees or other fiduciaries.

(c) For the purpose of ascertaining the gain derived from the sale or other disposition of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived.

Profits from
Sale of
Property

Additional Tax Includes Undistributed Profits

Sec. 3. For the purpose of the additional tax, the taxable income of any individual shall include the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead

Dividends

Stockholders
Lists

of being divided or distributed; and the fact that any such corporation, joint-stock company or association, or insurance company, is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company or association, or insurance company shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed.

Income Exempt from Law.

Exempt
Income

Sec. 4. The following income shall be exempt from the provisions of this title:

The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon the surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a State or any political subdivision thereof or upon the

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obligations of the United States or its possessions or securities issued under the provisions of the Federal farm loan Act of July seventeenth, nineteen hundred and sixteen; the compensation of the present President of the United States during the term for which he has been elected, and the judges of the Supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State, or any political subdivision thereof, except when such compensation is paid by the United States Government.

Government
and
Municipal
Bonds

Deductions Allowed.

Sec. 5. That in computing net income in the case of a citizen or resident of the United States—

Deductions
Allowed
Citizens and
Residents

(a) For the purpose of the tax there shall be allowed as deductions—

First. The necessary expenses actually paid in carrying on any business or trade, not including personal, living, or family expenses;

Second. All interest paid within the year on his indebtedness;

Third. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or any foreign country, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits;

Fourth. Losses actually sustained during the year, incurred in his business or trade, or arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the loss sustained from the sale or other disposition of property, real, personal,

or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss sustained;

Fifth. In transactions entered into for profit, but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom;

Sixth. Debts due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade.

Eighth. (a) In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowances authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of

expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Credits Allowed.

(b) For the purpose of the normal tax only, the income embraced in a personal return shall be credited with the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company or association, trustee, or insurance company, which is taxable upon its net income as hereinafter provided;

Dividends

(c) A like credit shall be allowed as to the amount of income, the normal tax upon which has been paid or withheld for payment at the source of the income under the provisions of this title.

**Income
Taxed at
Source**

Nonresident Aliens.

Sec. 6. That in computing net income in the case of a nonresident alien—

(a) For the purpose of the tax there shall be allowed as deductions—

**Deductions
Allowed
Non-resident
Aliens**

First. The necessary expenses actually paid in carrying on any business or trade conducted by him within the United States, not including personal, living, or family expenses;

Second. The proportion of all interest paid within the year by such person on his indebtedness which the gross amount of his income for the year derived from sources within the United States bears to the gross amount of his income for the year derived from all sources within and without the United States, but this deduction shall be allowed only if such person includes in the return required by section eight all the information necessary for its calculation;

Third. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;

Fourth. Losses actually sustained during the year, incurred in business or trade conducted by him within the United States, and losses of property within the United States arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the amount of such loss or losses sustained in trade, or speculative transactions not in trade, from the same or any kind of property acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss or losses sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom in the United States;

Sixth. Debts arising in the course of business or trade conducted by him within the United States due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property within the United States arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in

flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) There shall also be allowed the credits specified by subdivisions (b) and (c) of section five.

Personal Exemption.

Sec. 7. (a) That for the purpose of the normal tax only, there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each of said persons, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a head of a family or a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this

**Specific or
Personal
Exemption**

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Guardians
and Trustees

additional exemption of \$1,000 be deducted by both a husband and a wife; *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together: *Provided further*, That guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or cestui que trust: *Provided further*, That in no event shall a ward or cestui que trust be allowed a greater personal exemption than \$3,000, or, if married, \$4,000, as provided in this paragraph, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased persons during the period of administration or settlement, and of trust or other estates the income of which is not distributed annually or regularly under the provisions of paragraph (b), section two, the sum of \$3,000, including such deductions as are allowed under section five.

Estates

Non-resident
Alien

(b) A nonresident alien individual may receive the benefit of the exemption provided for in this section only by filing or causing to be filed with the collector of internal revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the United States, in the manner prescribed by this title; and in case of his failure to file such return the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax.

Returns.

Tax Year

Sec. 8. (a) The tax shall be computed upon the net income, as thus ascertained, of each person sub-

T H E I N C O M E T A X L A W

ject thereto, received in each preceding calendar year ending December thirty-first.

(b) On or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, a true and accurate return under oath shall be made by each person of lawful age, except as hereinafter provided, having a net income of \$3,000 or over for the taxable year to the collector of internal revenue for the district in which such person has his legal residence or principal place of business, or if there be no legal residence or place of business in the United States, then with the collector of internal revenue at Baltimore, Maryland, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources, and from the total thereof deducting the aggregate items of allowances herein authorized: *Provided*, That the Commissioner of Internal Revenue shall have authority to grant a reasonable extension of time, in meritorious cases, for filing returns of income by persons residing or traveling abroad who are required to make and file returns of income and who are unable to file said returns on or before March first of each year: *Provided further*, That the aforesaid return may be made by an agent when by reason of illness, absence, or nonresidence the person liable for said return is unable to make and render the same, the agent assuming the responsibility of making the return and incurring penalties provided for erroneous, false, or fraudulent return.

Returns
Due
March 1st

Where
Filed

Extension
of Time

(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capa-

Fiduciaries

T H E I N C O M E T A X L A W

city, shall make and render a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this title which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this title which apply to individuals: *Provided*, That a return made by one of two or more joint fiduciaries filed in the district where such fiduciary resides, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph.

Deduction
at Source

(d) All persons, firms, companies, copartnerships, corporations, joint-stock companies, or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another individual subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be deducted and withheld at the source of the income shall not be construed to require the withholding of such tax according to the two per centum normal tax rate herein prescribed until on and after January first, nineteen hundred and seventeen, and

During 1916

the law existing at the time of the passage of this Act shall govern the amount withheld or to be withheld at the source until January first, nineteen hundred and seventeen.

That in either case mentioned in subdivisions (c) and (d) of this section no return of income not exceeding \$3,000 shall be required, except as in this title provided.

(c) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this title: *Provided*, That from the net distributive interests on which the individual members shall be liable for tax, normal and additional, there shall be excluded their proportionate shares received from interest on the obligations of a State or any political or taxing subdivision thereof, and upon the obligations of the United States and its possessions, and all taxes paid to the United States or to any possession thereof, or to any State, county, or taxing subdivision of a State, and that for the purpose of computing the normal tax there shall be allowed a credit, as provided by section five, subdivision (b), for their proportionate share of the profits derived from dividends. And such partnership, when requested by the Commissioner of Internal Revenue, or any district collector, shall render a correct return of the earnings, profits, and income of the partnership, except income exempt under section four of this Act, setting forth the item of the gross income and the deductions and credits allowed by this title, and the names and addresses of the individuals who would be entitled

Partnerships

T H E I N C O M E T A X L A W

to the net earnings, profits, and income, if distributed.

Dividends

(f) In every return shall be included the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of nonresident aliens such income derived from sources without the United States shall not be included.

**Keeping
of Accounts**

(g) An individual keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make his return upon the basis upon which his accounts are kept, in which case the tax shall be computed upon his income as so returned.

Assessment and Administration.

**Assessment
by June 1st**

Sec. 9. (a) That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said amounts shall be paid on or before the fifteenth day of June, except in cases of refusal or neglect to make such return and in cases of erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, or has been made, make a return upon information obtained as provided for in this title or by existing law, or require the necessary corrections to be made, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon noti-

**Tax Paid
Before
June 15th**

T H E I N C O M E T A X L A W

fication of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid, and interest at the rate of one per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

(b) All persons, firms, copartnerships, companies, corporations, joint-stock companies, or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than income derived from dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations, or insurance companies, the income of which is taxable under this title, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual or periodical gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this title, and shall pay the amount withheld to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax, and they are each hereby indemnified

Deduction
at the
Source

T H E I N C O M E T A X L A W

against every person, corporation, association, or demand whatsoever for all payments which they shall make in pursuance and by virtue of this title.

Specific
Exemption
—
How
Claimed

In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, such person shall not receive the benefit of the personal exemption allowed in section seven of this title except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him a signed notice in writing claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption: *Provided*, That if any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of not exceeding \$300.

Deductions
—
How
Claimed

And where the income tax is paid, or to be paid, at the source, no person shall be allowed the benefit of any deduction provided for in sections five or six of this title unless he shall, not less than thirty days prior to the day on which the return of his income is due, either (1) file with the person who is required to withhold and pay tax for him a true and correct return of his gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, or (2) likewise make application for deductions to the collector of the district in which return is made or to be made for him: *Provided*, That when any amount allowable as a deduction is known at the time of receipt of fixed annual or periodical income by an

individual subject to tax, he may file with the person, firm, or corporation making the payment a certificate, under penalty for false claim, and in such form as shall be prescribed by the Commissioner of Internal Revenue, stating the amount of such deduction and making a claim for an allowance of the same against the amount of tax otherwise required to be deducted and withheld at the source of the income, and such certificate shall likewise become a part of the return to be made in his behalf.

If such person is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made by an agent, he making oath that he has sufficient knowledge of the affairs and property of his principal to enable him to make a full and complete return, and that the return and application made by him are full and complete.

Application
by Agent

(c) The amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed or determinable annual or periodical gains, profits, and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to \$3,000, subject to the provisions of this title requiring the tax to be withheld at the source and deducted from annual income and returned and paid to the Government.

Deduction
at Source

(d) And likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon

Foreign
Payments

bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries.

And the tax in such cases shall be withheld, deducted, and returned for and in behalf of any person subject to the tax hereinbefore imposed, although such interest or dividends do not exceed \$3,000, by (1) any banker or person who shall sell or otherwise realize coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends (not payable in the United States), and (2) any person who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also (3) any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons.

(e) Where the tax is withheld at the source, the benefit of the exemption and the deductions allowable under this title may be had by complying with the foregoing provisions of this section.

(f) All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as

Collection
of Foreign
Payments

THE INCOME TAX LAW

the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

(g) The tax herein imposed upon gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. The intent and purpose of this title is that all gains, profits, and income of a taxable class, as defined by this title, shall be charged and assessed with the corresponding tax, normal and additional, prescribed by this title, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control, or disposal of the same. For the purpose of this title ownership or liability shall be determined as of the year for which a return is required to be rendered.

General
Assessment

The provisions of this title relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

PART II.—On Corporations.

Sec. 10 That there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company

Organizations
Liable
to Tax

T H E I N C O M E T A X L A W

Rate

or association, or insurance company, organized in the United States, no matter how created or organized but not including partnerships, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company organized, authorized, or existing under the laws of any foreign country, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies whose net income is taxable under this title: *Provided*, That the term "dividends" as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of its cash value.

Dividends
Defined

Tax Year

The foregoing tax rate shall apply to the total net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and sixteen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rate shall apply to the proportion of the total net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, which the period

between January first, nineteen hundred and sixteen, and the end of such fiscal year bears to the whole of such fiscal year, and the rate fixed in Section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," shall apply to the remaining portion of the total net income returned for such fiscal year.

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition by a corporation, joint-stock company or association, or insurance company, of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived or loss sustained.

Determining
Gain or
Loss

Conditional and Other Exemptions.

Sec. 11. (a) That there shall not be taxed under this title any income received by any—

Non-taxable
Organizations

First. Labor, agricultural, or horticultural organization;

Second. Mutual savings bank not having a capital stock represented by shares;

Third. Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Fourth. Domestic building and loan association and cooperative banks without capital stock organ-

ized and operated for mutual purposes and without profit;

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Farmers', fruit growers', or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

Twelfth. Corporation or association organized for the exclusive purpose of holding title to property,

collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; or

Thirteenth. Federal land banks and national farm-loan associations as provided in section twenty-six of the Act approved July seventeenth, nineteen hundred and sixteen, entitled "An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes."

Fourteenth. Joint stock land banks as to income derived from bonds or debentures of other joint stock land banks or any Federal land bank belonging to such joint-stock land bank.

(b) There shall not be taxed under this title any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico; *Provided*, That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this title, entered in good faith into a contract with any person or corporation, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment

Income
from
Public
Utilities
—
When
Non-taxable

thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this title upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

Deductions.

Deductions
Allowed
Domestic
Organizations

Sec. 12. (a) In the case of a corporation, joint-stock company or association, or insurance company, organized in the United States, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources—

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be as ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been

mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall

Insurance
Companies

be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Interest
Deductible

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding: *Provided*, That for the purpose of this title preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall not be deductible from gross income: *Provided further*, That in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares: *Provided further*, That in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such

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corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company;

Fourth. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or any foreign country, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits.

Taxes
Deductible

(b) In the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources within the United States—

Deductions
Allowed
Foreign
Organizations

First. All the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or

other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained within the year in business or trade conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) and in the case (a) of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof

Insurance
Companies

for which an allowance is or has been made. *Provided, further,* That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further,* That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income

Interest
Deductible

THE INCOME TAX LAW

for the year from business transacted and capital investment within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the United States and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof;

Taxes
Deductible

Fourth. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;

Insurance
Companies

(c) In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Returns.

Optional
Tax Year

Sec. 13 (a) The tax shall be computed upon the net income, as thus ascertained, received within each preceding calendar year ending December thirty-first: *Provided*, That any corporation, joint-stock

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company or association, or insurance company, subject to this tax, may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the first day of March of the year in which its return would be filed if made upon the basis of the calendar year;

(b) Every corporation, joint-stock company or association, or insurance company, subject to the tax herein imposed, shall, on or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, or, if it has designated a fiscal year for the computation of its tax, then within sixty days after the close of such fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, and the close of each such fiscal year thereafter, render a true and accurate return of its annual net income in the manner and form to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and containing such facts, data, and information as are appropriate and in the opinion of the commissioner necessary to determine the correctness of the net income returned and to carry out the provisions of this title. The return shall be sworn to by the president, vice-president, or other principal officer, and by the treasurer or assistant treasurer. The return shall be made to

Returns
—
When Due

T H E I N C O M E T A X L A W

Where
Filed

the collector of the district in which is located the principal office of the corporation, company, or association, where are kept its books of account and other data from which the return is prepared, or in the case of a foreign corporation, company, or association, to the collector of the district in which is located its principal place of business in the United States, or if it have no principal place of business, office, or agency in the United States, then to the collector of internal revenue at Baltimore, Maryland. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue;

Trustees
and Others

(c) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, joint-stock companies or associations, or insurance companies, subject to tax imposed by this title, such receivers, trustees, or assignees shall make returns of net income as and for such corporations, joint-stock companies or associations, and insurance companies, in the same manner and form as such organizations are hereinbefore required to make returns, and any income tax due on the basis of such returns made by receivers, trustees, or assignees shall be assessed and collected in the same manner as if assessed directly against the organizations of whose businesses or properties they have custody and control;

Keeping of
Accounts

(d) A corporation, joint-stock company or association, or insurance company, keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make its return upon the basis upon which its

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accounts are kept, in which case the tax shall be computed upon its income as so returned;

(e) All the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to incomes derived from interest upon bonds and mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien firms, co-partnerships, companies, corporations, joint-stock companies or associations, and insurance companies not engaged in business or trade within the United States and not having any office or place of business therein;

Deduction
at Source

Non-resident
Organizations

Interest

(f) Likewise, all the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to income derived from dividends upon the capital stock or from the net earnings of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien companies, corporations, joint-stock companies or associations, and insurance companies not engaged in business or trade within the United States and not having any office or place of business therein.

Dividends

Assessment and Administration.

Sec. 14 (a) All assessments shall be made and the several corporations, joint-stock companies or

Assessment

T H E I N C O M E T A X L A W

**Payment
of Tax**

associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the fifteenth day of June: *Provided*, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and five days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this title or by existing law; and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, or after one hundred and five days from the date on which the return of income is required to be made by the taxpayer, and after ten days' notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid and interest at the rate of one per centum per month upon said tax from the time the same becomes due; *Provided*, That upon the examination of any return of income made pursuant to this title, the Act of August fifth, nineteen hundred and nine, entitled "An Act to provide revenue, equalize duties and

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encourage the industries of the United States, and for other purposes," and the Act of October third, nineteen hundred and thirteen, entitled, "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes", if it shall appear that amounts of tax have ben paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding the provisions of section thirty-two hundred and twenty-eight of the Revised Statutes;

(b) When the assessment shall be made, as provided in this title, the returns, together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company or association, or insurance company, at such times and in such maner as the Secretary of the Treasury may prescribe;

How
Returns Are
Open to
Inspection

(c) If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding \$10,000; *Provided*, That

Penalty

the Commissioner of Internal Revenue shall have authority, in the case of either corporations or individuals, to grant a reasonable extension of time in meritorious cases, as he may deem proper.

(d) That section thirty-two hundred and twenty-five of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

“Sec. 3225. When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that the said list, statement, or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this section shall not apply to statements or returns made or to be made in good faith under the laws of the United States regarding annual depreciation of oil or gas wells and mines.”

PART III.—General Administrative Provisions.

Definitions

Sec. 15. That the word “State” or “United States” when used in this title shall be construed to include any Territory, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

Sec. 16. That sections thirty-one hundred and sixty-seven, thirty one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

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Sec. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Information
Not to Be
Disclosed

"Sec. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and require after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

"Sec. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in

General
Administrative
Provisions

case of a special tax, on or before the thirty-first day of July in each year, (2) in case of income tax on or before the first day of March in each year, or on or before the last day of the sixty-day period next following the closing date of the fiscal year for which it makes a return of its income, and (3) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector

as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such

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State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided, That* 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions.

Return
by Collector

"Sec. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law, or makes, willfully or otherwise a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. Any return or list so made and subscribed by a collector or deputy collector shall be prima facie good and sufficient for all legal purposes.

Extension
of Time

"If the failure to file a return or list is due to sickness or absence the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

Penalties

"The Commissioner of Internal Revenue shall assess all taxes, other than stamp taxes, as to which returns or lists are so made by a collector or deputy collector. In case of any failure to make and file a return or list within the time prescribed by law or by the collector, the Commissioner of Internal Revenue shall add to the tax fifty per centum of its amount except that, when a return is voluntarily and without notice from the collector filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful

neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax one hundred per centum of its amount.

“The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.”

Sec. 17 That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes is made under the provisions of this title, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Receipt
for Taxes

T H E I N C O M E T A X L A W

Penalties

Sec. 18. That if any individual liable to make the return or pay the tax aforesaid shall refuse or neglect to make such return at the time or times hereinbefore specified in each year, he shall be liable to a penalty of not less than \$20 nor more than \$1,000. Any individual or any officer of any corporation, joint-stock company or association, or insurance company required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this title to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, in the discretion of the court, with the costs of prosecution: *Provided*, That where any tax heretofore due and payable has been duly paid by the taxpayer, it shall not be re-collected from any person or corporation required to retain it at its source, nor shall any penalty be imposed or collected in such cases from the taxpayer, or such person or corporation whose duty it was to retain it, for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

**Return
Verified
by Oath**

Sec. 19. The collector or deputy collector shall require every return to be verified by the oath of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. Such person may furnish sworn testimony to prove any relevant facts, and, if dissatisfied with the decision of the collector, may appeal to the Commissioner of Internal Revenue for his decision under such

Appeal

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rules of procedure as may be prescribed by regulation.

Sec. 20. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this title to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

Jurisdiction

Sec. 21. That the preparation and publication of statistics reasonably available with respect to the operation of the income tax law and containing classifications of taxpayers and of income, the amounts allowed as deductions and exemptions, and any other facts deemed pertinent and valuable, shall be made annually by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

Statistics
Published

Sec. 22. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this title, are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed.

Sec. 23. That the provisions of this title shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general Governments thereof, respectively: *Provided further*, That the jurisdiction in

Law
Applies to
Porto
Rico and
Philippines

this title conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this title shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico, and the Philippine Islands, or the political subdivisions thereof.

Previous
Law
Repealed

Sec. 24. That Section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," is hereby repealed, except as herein otherwise provided, and except that it shall remain in force for the assessment and collection of all taxes which have accrued thereunder, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes, and except that the unexpended balance of any appropriation heretofore made and now available for the administration of such section or any provision thereof shall be available for the administration of this title or the corresponding provision thereof.

Sec. 25. That income on which has been assessed the tax imposed by Section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, shall not be considered as income within the meaning of this title: *Provided*, That this section shall not conflict with that portion of section ten, of this title, under which a taxpayer has fixed its own fiscal year.

The Estate Tax Law

Sec. 200. That when used in this title—

Definitions

The term "person" includes partnerships, corporations, and associations;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator, any person who takes possession of any property of the decedent; and

The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue at Baltimore, Maryland.

Sec. 201. That a tax (hereinafter in this title referred to as the tax), equal to the following percentages of the value of the net estate to be determined as provided in section two hundred and three, is hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this Act, whether a resident or nonresident of the United States:

Estates
Taxable

One per centum of the amount of such net estate not in excess of \$50,000;

Rates of
Tax

Two per centum of the amount by which such net estate exceeds \$50,000 and does not exceed \$150,000;

Three per centum of the amount by which such net estate exceeds \$150,000 and does not exceed \$250,000;

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Four per centum of the amount by which such net estate exceeds \$250,000 and does not exceed \$450,000;

Five per centum of the amount by which such net estate exceeds \$450,000 and does not exceed \$1,000,000;

Six per centum of the amount by which such net estate exceeds \$1,000,000 and does not exceed \$2,000,000;

Seven per centum of the amount by which such net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

Eight per centum of the amount by which such net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

Nine per centum of the amount by which such net estate exceeds \$4,000,000 and does not exceed \$5,000,000; and

Ten per centum of the amount by which such net estate exceeds \$5,000,000.

Gross
Estates
What
Included

Sec. 202. That the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated:

(a) To the extent of the interest therein of the decedent at the time of his death which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate.

(b) To the extent of any interest therein of which the decedent has at any time made a transfer, or with respect to which he has created a trust, in contemplation of or intended to take effect in possession or enjoyment at or after his death, except in case of a bona fide sale for a fair consideration in money or money's worth. Any transfer of

a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title; and

(c) To the extent of the interest therein held jointly or as tenants in the entirety by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent.

For the purpose of this title stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States, and any property of which the decedent has made a transfer or with respect to which he has created a trust, within the meaning of subdivision (b) of this section, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or the creation of the trust, or at the time of the decedent's death.

Domestic
Stock
Taxable

Sec. 203. That for the purpose of the tax the value of the net estate shall be determined—

Deductions
Allowed
Residents

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate, arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise, support during the settlement of the estate of those

dependent upon the decedent, and such other charges against the estate, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered; and

(2) An exemption of \$50,000;

Non-residents

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States that proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated. But no deductions shall be allowed in the case of a non-resident unless the executor includes in the return required to be filed under section two hundred and five the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

Tax

Sec. 204. That the tax shall be due one year after the decedent's death. If the tax is paid before it is due a discount at the rate of five per centum per annum, calculated from the time payment is made to the date when the tax is due, shall be deducted. If the tax is not paid within ninety days after it is due interest at the rate of ten per centum per annum from the time of the decedent's death shall be added as part of the tax, unless because of claims against the estate, necessary litigation, or other unavoidable delay the collector finds that the tax can not be determined in which case the interest shall be at the rate of six per centum per annum from the time of the decedent's death until the cause of such delay is removed, and thereafter at the rate of ten per centum per annum. Litigation to defeat the payment of the tax shall not be deemed necessary litigation.

Penalty

Sec. 205. That the executor, within thirty days after qualifying as such, or after coming into possession of any property of the decedent, whichever event first occurs, shall give written notice thereof to the collector. The executor, shall also, at such times and in such manner as may be required by the regulations made under this title, file with the collector a return under oath in duplicate, setting forth (a) the value of the gross estate of the decedent at the time of his death, or, in case of a non-resident, of that part of his gross estate situated in the United States; (b) the deductions allowed under section two hundred and three; (c) the value of the net estate of the decedent as defined in section two hundred and three; and (d) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Duty of
Estate
Representative

Return shall be made in all cases of estates subject to the tax or where the gross estate at the death of the decedent exceeds \$60,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate. The Commissioner of Internal Revenue shall make all assessments of the tax under the authority of existing administrative special and general provisions of law relating to the assessment and collection of taxes.

Return

Sec. 206. That if no administration is granted upon the estate of a decedent, or if no return is filed as provided in section two hundred and five, or if a return contains a false or incorrect statement of a material fact, the collector or deputy collector shall make a return and the Commissioner of Internal Revenue shall assess the tax thereon.

**Where
Filed**

Sec. 207. That the executor shall pay the tax to the collector or deputy collector. If for any reason the amount of the tax can not be determined, the payment of a sum of money sufficient, in the opinion of the collector, to discharge the tax shall be deemed payment in full of the tax, except as in this section otherwise provided. If the amount so paid exceeds the amount of the tax as finally determined, the Commissioner of Internal Revenue shall refund such excess to the executor. If the amount of the tax as finally determined exceeds the amount so paid the commissioner shall notify the executor of the amount of such excess. From the time of such notification to the time of the final payment of such excess part of the tax, interest shall be added thereto at the rate of ten per centum per annum, and the amount of such excess shall be a lien upon the entire gross estate, except such part thereof as may have been sold to a bona fide purchaser for a fair consideration in money or money's worth.

The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

**Action
to Collect
Tax**

Sec. 208. That if the tax herein imposed is not paid within sixty days after it is due, the collector shall, unless there is reasonable cause for further

delay, commence appropriate proceedings in any court of the United States, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is practicable and unless otherwise directed by the will of the decedent, the tax shall be paid out of the estate before its distribution.

Estates
Taxable
As Such

Sec. 209. That unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

Tax Lien
on Estate

If the decedent makes a transfer of, or creates a trust with respect to, any property in contemplation of or intended to take effect in possession or enjoy-

Tax Lien
on Gifts, etc.

ment at or after his death (except in the case of a bona fide sale for a fair consideration in money or money's worth) and if the tax in respect thereto is not paid when due, the transferee or trustee shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bonafide purchaser for a fair consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for a fair consideration in money or money's worth.

Penalty

Sec. 210. That whoever knowingly makes any false statement in any notice or return required to be filed by this title shall be liable to a penalty of not exceeding \$5,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Whoever fails to comply with any duty imposed upon him by section two hundred and five, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, fails to exhibit the same upon request to the Commissioner of Internal Revenue or any collector or law officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States.

Sec. 211. That all administrative, special, and general provisions of law, including the laws in relation to the assessment and collection of taxes, not here-

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tofore specifically repealed are hereby made to apply to this title so far as applicable and not inconsistent with its provisions.

Sec. 212. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make such regulations, and prescribe and require the use of such books and forms, as he may deem necessary to carry out the provisions of this title.

Administration
of Law

Collection Districts
with the
Names and Addresses of Collectors
of Internal Revenue

Revised to December 31, 1915.

ALABAMA (Includes Mississippi)

John D. McNeel, Birmingham.

ALASKA (See Washington)

ARIZONA (See New Mexico)

ARKANSAS

Jack Walker, Little Rock.

CALIFORNIA (First District includes Nevada)

First District—Joseph J. Scott, San Francisco.

Sixth District—John P. Carter, Los Angeles.

COLORADO (Includes Wyoming)

Mark A. Skinner, Denver.

CONNECTICUT (Includes Rhode Island)

James J. Walsh, Hartford.

DELAWARE (See Maryland)

FLORIDA

Henry Hayes Lewis, Jacksonville.

GEORGIA

Aaron O. Blalock, Atlanta.

HAWAII

John F. Haley, Honolulu.

IDAHO (See Montana)

ILLINOIS

First District—Julius F. Smietanka, Chicago.

Fifth District—Edward D. McCabe, Peoria.

Eighth District—John L. Pickering, Springfield.

Thirteenth District—John M. Rapp, E. St. Louis.

C O L L E C T I O N D I S T R I C T S

INDIANA

Sixth District—Peter J. Druyer, Indianapolis.

Seventh District—Isaac R. Strouse, Terre Haute.

IOWA

Louis Murphy, Dubuque.

KANSAS

William H. L. Pepperell, Wichita.

KENTUCKY

Second District—Josh T. Griffith, Owensboro.

Fifth District—Thomas S. Mayes, Louisville.

Sixth District—Charlton B. Thompson, Covington.

Seventh District—Ben Marshall, Lexington.

Eighth District—John W. Hughes, Danville.

LOUISIANA

John Y. Fauntleroy, New Orleans.

MAINE (See New Hampshire)

MARYLAND

Joshua W. Miles, Baltimore.

District of Maryland consists of the following named territory: The States of Maryland and Delaware, the District of Columbia, and the counties of Accomac and Northampton of the State of Virginia.

MASSACHUSETTS

John F. Malley, Boston.

MICHIGAN

First District—James J. Brady, Detroit.

Fourth District—Emanuel J. Doyle, Grand Rapids.

MINNESOTA

Edward J. Lynch, St. Paul.

MISSISSIPPI (See Alabama)

MISSOURI

First District—George H. Moore, St. Louis.

Sixth District—Edgar M. Harber, Kansas City.

C O L L E C T I O N D I S T R I C T S

MONTANA (Includes Utah and Idaho)

William C. Whaley, Helena.

NEBRASKA

George L. Loomis, Omaha.

NEVADA (See First District, California)

NEW HAMPSHIRE (Includes Maine and Vermont)

Seth W. Jones, Portsmouth.

NEW JERSEY

First District—Samuel Iredell, Camden.

Fifth District—Charles V. Duffy, Newark.

NEW MEXICO (Includes Arizona)

Lewis T. Carpenter, Phoenix.

NEW YORK

First District—Henry P. Keith, Brooklyn.

Second District—John Z. Lowe, Jr., Custom House, New York.

Third District—Mark Eisner, 1150 Broadway, New York.

Fourteenth District—Roscoe Irwin, Albany.

Twenty-first District—Neil Brewster, Syracuse.

Twenty-eighth District—Vincent H. Riordan, Buffalo.

NORTH CAROLINA

Fourth District—Josiah W. Bailey, Raleigh.

Fifth District—Alston D. Watts, Statesville.

NORTH AND SOUTH DAKOTA

James Coffey, Aberdeen, So. Dakota.

OHIO

First District—Andrew C. Gilligan, Cincinnati.

Tenth District—Frank B. Niles, Toledo.

Eleventh District—Beriah Williamson, Columbus.

Eighteenth District—Harry H. Weiss, Cleveland.

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